

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

v.

MATTHEW D. ROGERS,

Defendant.

Case No. 1:22-mj-207

SECOND CONSENT MOTION TO EXTEND TIME FOR INDICTMENT

The United States of America, by and through its attorneys, Jessica D. Aber, United States Attorney for the Eastern District of Virginia, and Thomas W. Traxler, Assistant United States Attorney, with the express consent of the defendant, and the defendant's counsel, respectfully move the Court to extend the time to indict this case through and including October 26, 2022. In support thereof, the parties state as follows:

1. The defendant was arrested on or about August 4, 2022, on a criminal complaint charging him with unlawful transfer or possession of a machinegun, in violation of Title 18, U.S. Code, § 922(o). On that date, the defendant made his initial appearance in the Eastern District of Virginia. The government did not seek detention, and the defendant was released, with a preliminary hearing set for August 9, 2022. On August 9, the defendant waived the preliminary hearing, and the court found probable cause to support the criminal complaint. Attorneys David Benowitz and Rammy Barbari represent the defendant and have entered their appearances.

2. The Speedy Trial Act requires that the defendant be indicted within thirty days of the defendant's arrest after subtracting all excludable time. *See* 18 U.S.C. § 3161(b). On August 23, 2022, the government moved to extend the time to indict from September 3, 2022, to October 4, 2022, to allow the defense counsel an opportunity to meet with the defendant, review

discovery, and discuss a possible pre-indictment plea resolution of the case. The Court granted that motion on August 24, 2022. As a result, the indictment deadline is October 4, 2022.

3. During that time, the government has extended a preindictment plea offer and produced discovery to the defense. However, the parties experienced unforeseen technical difficulties in transferring the discovery to the defense. Specifically, the defense was unable to access the discovery on the initial thumb drive provided by the government, and the hard drive that the defense then provided the government was not compatible with the government's systems. The issue took approximately three weeks for the parties to resolve. In addition to the delay in resolving this issue, defense counsel has informed the government that they need additional time to review the discovery and advise their client in light of their trial schedule.

4. Extending the time to indict by approximately three weeks would be in the best interests of justice in that it would give defense counsel the opportunity to review discovery and advise the defendant on the preindictment plea offer that the government has extended.

5. The defendant hereby agrees to waive any objections under the Speedy Trial Act and to extend the government's time to file an indictment in this case through and including October 26, 2022. The waiver is made knowingly, intentionally, and voluntarily by the defendant, and with full knowledge of the provisions of the Speedy Trial Act, Title 18, United States Code, Sections 3161, *et seq.*, and with the advice and consent of counsel.

6. The defendant expressly understands that his waiver is not predicated upon any promises, agreements, or understandings of any kind between the government and the defense in this case, and that nothing contained herein shall be construed to preclude the government from proceeding against the defendant during or after the time period covered by this waiver.


WHEREFORE, the parties request that the time to indict this case be extended to and including October 26, 2022, and that the delay resulting from this extension be excluded in computing the time within which an indictment must be filed pursuant to Title 18, United States Code, Section 3161(h).

Respectfully submitted,

Jessica D. Aber
United States Attorney

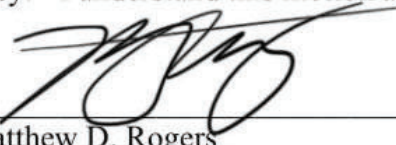
Date: September 19, 2022

By: _____


Thomas W. Traxler
Assistant United States Attorney

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all my rights with respect to a speedy trial, including my right to be charged by indictment within 30 days of arrest, as required by Title 18, United States Code, Section 3161(b). I have read this motion for an extension of time to be charged by indictment, and carefully reviewed every part of it with my attorney. I understand this motion and voluntarily agree to it.


Date: 09/19/2022



Matthew D. Rogers
Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's right to be charged by indictment within 30 days of arrest. Specifically, I have reviewed the terms and conditions of Title 18, United States Code, Section 3161(b), and I have fully explained to the defendant the provisions that may apply in this case. To my knowledge, the defendant's decision to agree to an extension of time to be charged by indictment is an informed

Date: 09/19/2022



Counsel for the Defendant